

**PRIVATE RECORDS AMENDMENTS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: David H. Steele**

**This act modifies the Government Records Access and Management Act to expand records designated as private to include certain records in a personalized user database for state online applications.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**63-2-302 (Effective 07/01/02)**, as last amended by Chapter 8, Laws of Utah 2001, First Special Session

**63-2-302 (Superseded 07/01/02)**, as last amended by Chapter 48, Laws of Utah 1999

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **63-2-302 (Effective 07/01/02)** is amended to read:

**63-2-302 (Effective 07/01/02). Private records.**

(1) (a) The following records are private:

(i) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(ii) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(iii) records of publicly funded libraries that when examined alone or with other records identify a patron;

(iv) records received or generated for a Senate or House Ethics Committee concerning any alleged violation of the rules on legislative ethics, prior to the meeting, and after the meeting, if the ethics committee meeting was closed to the public;

(v) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:



(A) if before the meeting, the chair of the committee determines release of the records:

(I) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(II) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing;

(B) after the meeting, if the meeting was closed to the public;

(vi) records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(vii) that part of a record indicating a person's social security number if provided under Section 31A-23-202, 31A-26-202, 58-1-301, 61-1-4, or 61-2-6; ~~and~~

(viii) that part of a voter registration record identifying a voter's driver license or identification card number, social security number, or last four digits of the social security number[-]; and

(ix) a record that:

(A) contains information about an individual;

(B) is voluntarily provided by the individual with the individual's knowledge and permission and for the individual's convenience; and

(C) is in the personalized user database for state online applications that is:

(I) administered under the authority of the Chief Information Officer; and

(II) designated by the Chief Information Officer as the personalized user database.

(b) For records declared private under Subsection (1)(a)(vi), a current or former employee of a government entity may:

(i) give actual written notice of the employee's status as a government employee to each agency of a government entity holding records that would disclose the employee's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions; and

(ii) in the notice:

(A) provide evidence of qualifying employment;

(B) request assistance by the agency to identify the records containing information in Subsection (1)(b)(i);

(C) designate each specific record that the applicant desires to be classified as private; and  
(D) affirmatively request that the government entity holding those records classify them as private.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63-2-301(1)(b) or 63-2-301(2)(o), or private under Subsection(1)(a)(ii);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63-2-301(1);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy; and

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63-2-303 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records

were in the possession of a nongovernmental medical care provider.

Section 2. Section **63-2-302 (Superseded 07/01/02)** is amended to read:

**63-2-302 (Superseded 07/01/02). Private records.**

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

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(d) records received or generated for a Senate or House Ethics Committee concerning any alleged violation of the rules on legislative ethics, prior to the meeting, and after the meeting, if the ethics committee meeting was closed to the public;

(e) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing;

(ii) after the meeting, if the meeting was closed to the public;

(f) records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(g) that part of a record indicating a person's social security number if provided under Section 31A-23-202, 31A-26-202, 58-1-301, 61-1-4, or 61-2-6; ~~[and]~~

(h) that part of a voter registration record identifying a voter's driver license or identification card number, Social Security number, or last four digits of the Social Security number[-]; and

(i) a record that:

(i) contains information about an individual;

121 (ii) is voluntarily provided by the individual with the individual's knowledge and  
122 permission and for the individual's convenience; and

123 (iii) is in the personalized user database for state online applications that is:

124 (A) administered under the authority of the Chief Information Officer; and

125 (B) designated by the Chief Information Officer as the personalized user database.

126 (2) The following records are private if properly classified by a governmental entity:

127 (a) records concerning a current or former employee of, or applicant for employment with  
128 a governmental entity, including performance evaluations and personal status information such as  
129 race, religion, or disabilities, but not including records that are public under Subsection  
130 63-2-301(1)(b) or 63-2-301(2)(o), or private under Subsection 63-2-302(1)(b);

131 (b) records describing an individual's finances, except that the following are public:

132 (i) records described in Subsection 63-2-301(1);

133 (ii) information provided to the governmental entity for the purpose of complying with a  
134 financial assurance requirement; or

135 (iii) records that must be disclosed in accordance with another statute;

136 (c) records of independent state agencies if the disclosure of those records would conflict  
137 with the fiduciary obligations of the agency;

138 (d) other records containing data on individuals the disclosure of which constitutes a  
139 clearly unwarranted invasion of personal privacy; and

140 (e) records provided by the United States or by a government entity outside the state that  
141 are given with the requirement that the records be managed as private records, if the providing  
142 entity states in writing that the record would not be subject to public disclosure if retained by it.

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144 statements, history, diagnosis, condition, treatment, and evaluation.

145 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
146 doctors, or affiliated entities are not private records or controlled records under Section 63-2-303  
147 when the records are sought:

148 (i) in connection with any legal or administrative proceeding in which the patient's  
149 physical, mental, or emotional condition is an element of any claim or defense; or

150 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
151 relies upon the condition as an element of the claim or defense.

152           (c) Medical records are subject to production in a legal or administrative proceeding  
153 according to state or federal statutes or rules of procedure and evidence as if the medical records  
154 were in the possession of a nongovernmental medical care provider.

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**Legislative Review Note**  
**as of 11-29-01 3:35 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Committee Note**

The Public Utilities and Technology Interim Committee recommended this bill.